

ESTTA Tracking number: **ESTTA362870**

Filing date: **08/12/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Pasquale & Denise
Granted to Date of previous extension	08/14/2010
Address	117 Derbyshire Drive Cranston, RI 02921 UNITED STATES
Party who filed Extension of time to oppose	PasqualeDiPippo
Relationship to party who filed Extension of time to oppose	to conform to certificate of registration

Correspondence information	Joshua A. Stockwell, Esq. Barlow, Josephs & Holmes, Ltd. 101 Dyer Street, 5th Floor Providence, RI 02903 UNITED STATES jas@barjos.com Phone:4012734446
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### Applicant Information

Application No	77922054	Publication date	06/15/2010
Opposition Filing Date	08/12/2010	Opposition Period Ends	08/14/2010
Applicant	DIRTY BEATS, LLC 162 BARTON ROAD WHITE PLAINS, NY 10605 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: Retail music and record store services; promoting live music concerts and disc jockey services for parties and special events for others
Class 041. All goods and services in the class are opposed, namely: Entertainment, namely, providing live music concerts and disc jockey services for parties and special events; providing information relating to live performances, road shows, live stage events, live music concerts and audience participation in such events; multi-media entertainment and music production services in the nature of recording, production and post production services in the fields of music, video and film

## Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3352270	Application Date	07/11/2006
Registration Date	12/11/2007	Foreign Priority Date	NONE
Word Mark	DIRTY BEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/03/21 First Use In Commerce: 2007/03/21 CLOTHING, NAMELY, TEE-SHIRTS, TANK TOPS, HOODED SWEATSHIRTS, AND SWEAT PANTS		

Related Proceedings	92052441
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Attachments	78926455#TMSN.jpeg ( 1 page )( bytes ) Opposition 77922054.pdf ( 10 pages )(318991 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Joshua A. Stockwell/
Name	Joshua A. Stockwell, Esq.
Date	08/12/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of U.S. Application Serial No. 77922054  
For the Mark DIRTY BEATS

PASQUALE & DENISE,	)	
	)	
Opposer,	)	
v.	)	
	)	Opposition No. _____
DIRTY BEATS, LLC,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Pasquale & Denise, a Rhode Island partnership, with an address of 117 Derbyshire Drive, Cranston, RI 02921, believes that it is or will be damaged by registration of the mark DIRTY BEATS as applied for in Application Serial No. 77922054, filed on January 28, 2010, for the services identified therein in International Class 035 for “Retail music and record store services; promoting live music concerts and disc jockey services for parties and special events for others” and International Class 041 for “Entertainment, namely, providing live music concerts and disc jockey services for parties and special events; providing information relating to live performances, road shows, live stage events, live music concerts and audience participation in such events; multi-media entertainment and music production services in the nature of recording, production and post production services in the fields of music, video and film”.

The grounds for opposition are as follows:

1. Opposer has been continuously for several years engaged and is now engaged in the business of designing, making, selling and marketing clothing.

2. Opposer is the owner of US Trademark Registration No. 3,352,270 dated May 27, 2008 for the mark DIRTY BEATS for clothing, namely, T-shirts, tank tops, hooded sweatshirts, and sweatpants in class 25, which registration is valid, subsisting, unrevoked, and uncanceled. A copy of the registration prepared by the US Patent and Trademark Office showing current status and title accompanies this notice of opposition.

3. Opposer has used the mark DIRTY BEATS for clothing since at least as early as March 21, 2007, long before Applicant's filing date of January 28, 2010.

4. Upon information and belief, Applicant has made no use of its mark DIRTY BEATS prior to Opposer's date of first use of March 21, 2007.

5. Opposer sponsors and provides information about live concerts, road shows, live stage events and live music concerts in order to promote its DIRTY BEATS line of clothing.

6. Opposer's DIRTY BEATS line of clothing is sold, in part, at night clubs and bars in connection with live concerts and disc jockeys performances that it sponsors.

7. Opposer's clothing sold under the DIRTY BEATS mark is worn by at least one reality television star featured on cable television.

8. Opposer's clothing sold under the DIRTY BEATS mark is worn by disc jockeys that perform at various night clubs and bars throughout the United States.

9. Opposer's prior used and prior registered DIRTY BEATS mark is identical to Applicant's DIRTY BEATS mark.

10. Upon information and belief, Applicant's goods would be offered to the same consumers as those who may also purchase Opposer's DIRTY BEATS products or to whom Opposer market and promote their DIRTY BEATS products.

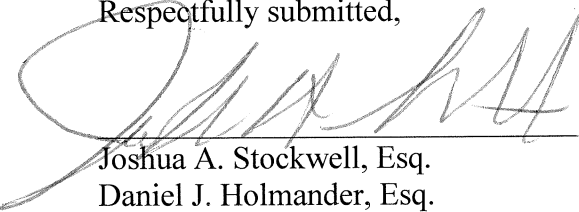
11. Use and registration of the mark DIRTY BEATS by Applicant in connection with identified goods is likely to cause confusion, cause mistake or deceive consumers, and cause them to believe that the goods offered by Applicant emanate from, or are sponsored by, endorsed by or otherwise connected with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12. Opposer will be damaged by the registration of Applicant's DIRTY BEATS mark by reason of the foregoing, and because such registration will support and assist Applicant in causing confusion and misleading consumers by providing a color of exclusive statutory rights in Applicant in violation and derogation of Opposer's prior superior rights.

WHEREFORE, Opposer respectfully requests this Board to refuse registration to Applicant's mark, DIRTY BEATS, Application Serial No. 77922054.

Dated: August 12, 2010

Respectfully submitted,



Joshua A. Stockwell, Esq.

Daniel J. Holmander, Esq.

Mark E. Tetreault, Esq.

Cheryl A. Clarkin, Esq.

David R. Josephs, Esq.

Stephen J. Holmes, Esq.

BARLOW, JOSEPHS & HOLMES, LTD.

101 Dyer Street, 5<sup>th</sup> Floor

Providence, RI 02910

(401) 273-4446 (tel)

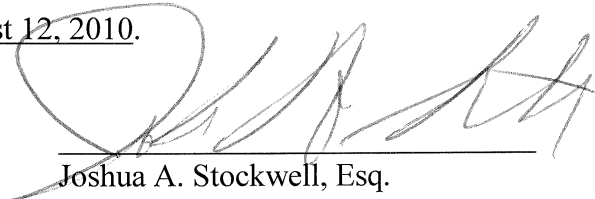
(401) 273-4447 (fax)

**Certificate of Service**

I, the undersigned below, hereby certify that a true and correct copy of the attached  
NOTICE OF OPPOSITION was served on the official correspondence address for the Applicant,

Karl F. Milde, Jr.  
ECKERT SEAMANS CHERIN & MELLOTT, LLC  
US Steel Tower  
600 Grant St 44TH FL  
Pittsburgh, PA 15219-2788

via postage prepaid by first-class mail on August 12, 2010.



Joshua A. Stockwell, Esq.

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 3,352,270

United States Patent and Trademark Office

Registered Dec. 11, 2007

Corrected

OG Date May 27, 2008

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TRADEMARK  
PRINCIPAL REGISTER

DIRTY BEATS

PASQUALE & DENISE (RHODE ISLAND  
PARTNERSHIP)  
117 DERBYSHIRE DRIVE  
C/O DENISE DIPIPPA  
CRANSTON, RI 02921

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: CLOTHING, NAMELY, TEE-SHIRTS, TANK TOPS, HOODED SWEAT-SHIRTS, AND SWEAT PANTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 3-21-2007; IN COMMERCE 3-21-2007.

SER. NO. 78-926,455, FILED 7-11-2006.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on May 27, 2008.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

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This page was generated by the TARR system on 2010-08-10 13:52:05 ET

Serial Number: 78926455 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3352270

Mark

DIRTY BEATS

(words only): [DIRTY BEATS](#)

Standard Character claim: Yes

Current Status: [A cancellation proceeding has been filed at the Trademark Trial and Appeal Board and is now pending.](#)

Date of Status: 2010-05-11

Filing Date: 2006-07-11

Transformed into a National Application: No

Registration Date: 2007-12-11

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 117](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: [830 -Post Registration](#)

Date In Location: 2008-07-03

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LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. [Pasquale & Denise](#)



**Composed Of:**[Denise DiPippo \(US\)](#) [Pasquale DiPippo \(US\)](#)**Address:**[Pasquale & Denise](#)[117 Derbyshire Drive c/o Denise DiPippo](#)[Cranston, RI 02921](#)[United States](#)**Legal Entity Type:** [Partnership](#)**State or Country Where Organized:** [Rhode Island](#)

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**GOODS AND/OR SERVICES**

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**International Class:** [025](#)**Class Status:** [Active](#)[CLOTHING, NAMELY, TEE-SHIRTS, TANK TOPS, HOODED SWEATSHIRTS, AND SWEAT PANTS](#)**Basis:** [1\(a\)](#)**First Use Date:** [2007-03-21](#)**First Use in Commerce Date:** [2007-03-21](#)

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**ADDITIONAL INFORMATION**

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[\(NOT AVAILABLE\)](#)

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**MADRID PROTOCOL INFORMATION**

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[\(NOT AVAILABLE\)](#)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

[2010-05-11 - Cancellation Instituted No. 999999](#)[2008-04-22 - Section 7 correction issued](#)[2008-04-10 - Assigned To Paralegal](#)[2008-02-29 - TEAS Section 7 Request Received](#)[2007-12-11 - Registered - Principal Register](#)[2007-09-25 - Published for opposition](#)[2007-09-05 - Notice of publication](#)

2007-08-22 - Law Office Publication Review Completed

2007-08-21 - Approved for Pub - Principal Register (Initial exam)

2007-08-21 - Examiner's Amendment Entered

2007-08-21 - Notification Of Examiners Amendment E-Mailed

2007-08-21 - EXAMINERS AMENDMENT E-MAILED

2007-08-21 - Examiners Amendment -Written

2007-08-21 - Previous Allowance Count Withdrawn

2007-08-13 - Withdrawn From Pub - Og Review Query

2007-05-25 - Law Office Publication Review Completed

2007-05-25 - Approved for Pub - Principal Register (Initial exam)

2007-05-25 - Amendment to Use approved

2007-05-24 - Amendment To Use Processing Complete

2007-05-08 - Use Amendment Filed

2007-05-24 - Teas/Email Correspondence Entered

2007-05-24 - Communication received from applicant

2007-05-24 - Assigned To LIE

2007-05-08 - TEAS Amendment of Use Received

2007-05-08 - TEAS Response to Office Action Received

2006-12-11 - Non-final action mailed

2006-12-09 - Non-Final Action Written

2006-12-09 - Assigned To Examiner

2006-08-14 - Applicant amendment prior to exam entered

2006-08-14 - TEAS Voluntary Amendment Received

2006-07-14 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Joshua A. Stockwell

**Correspondent**

PASQUALE & DENISE

117 DERBYSHIRE DRIVE c/o DENISE DIPIPPA

CRANSTON, RI 02921

Phone Number: 4012734446

Fax Number: 4012734447

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**No assignment has been recorded at the USPTO**

**For Serial Number: 78926455**

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.  
Web interface last modified: October 18, 2008 v.2.0.2

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